



CITY COUNCIL

AGENDA REQUEST

AGENDA OF:	9/04/07	AGENDA REQUEST NO:	IV B
INITIATED BY:	JUSTIN BOWER, WATER RESOURCES MANAGER	RESPONSIBLE DEPARTMENT:	UTILITIES
PRESENTED BY:	SUELLLEN STAGGS, DIRECTOR OF UTILITIES	DEPARTMENT HEAD:	SUELLLEN STAGGS, DIRECTOR OF UTILITIES <i>smg</i>
		ADDITIONAL DEPARTMENT. HEAD (S):	N/A
SUBJECT / PROCEEDING:	AUTHORIZE FACILITIES PURCHASE AGREEMENT BETWEEN THE CITY OF SUGAR LAND AND FORT BEND COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1 PROVIDING FOR CITY PURCHASE OF DISTRICT EASEMENTS AND FACILITIES (DAMS).		
EXHIBITS:	MAP FACILITIES PURCHASE AGREEMENT EASEMENTS ASSIGNMENT AND FACILITIES CONVEYANCE		
CLEARANCES		APPROVAL	
LEGAL:	EUGENIA CANO, <i>EC</i> ASSISTANT CITY ATTORNEY	EXECUTIVE DIRECTOR:	N/A
PURCHASING:	JENNIFER MONTGOMERY <i>Jm</i> PURCHASING MANAGER	ASST. CITY MANAGER:	KAREN GLYNN <i>Kg</i>
BUDGET:	JENNIFER BROWN <i>JB</i> ASSISTANT FISCAL SERVICES DIRECTOR	CITY MANAGER:	ALLEN BOGARD <i>Kg</i> FOR AB
BUDGET			
EXPENDITURE REQUIRED: \$		46,550	
AMOUNT BUDGETED/REALLOCATION: \$		46,550	
ADDITIONAL APPROPRIATION: \$		N/A	
RECOMMENDED ACTION			
Staff recommends that City Council authorize the execution of a Facilities Purchase Agreement between the City of Sugar Land and Fort Bend County Water Control and Improvement District No. 1 (District) for City purchase of District Easements and Facilities (dams).			

EXECUTIVE SUMMARY

In the Surface Water Supply Contract between the City of Sugar Land and the Fort Bend County Water Control and Improvement District #1 (District) approved by City Council on March 28, 2006, both parties agreed to negotiate for the City's purchase of the District's physical assets, including all land, easements, and improvements (dams) held by the District. The land, dams and conveyances included in this potential purchase represent an important part of the drainage and impoundment infrastructure on Oyster Creek in Sugar Land, and are shown on the attached map. Council previously discussed the terms of the fee tracts and the easements contracts at the April 17, 2006 City Council meeting. In working with our City Attorney and the District's legal counsel, the attached Agreement was recommended to convey the assets.

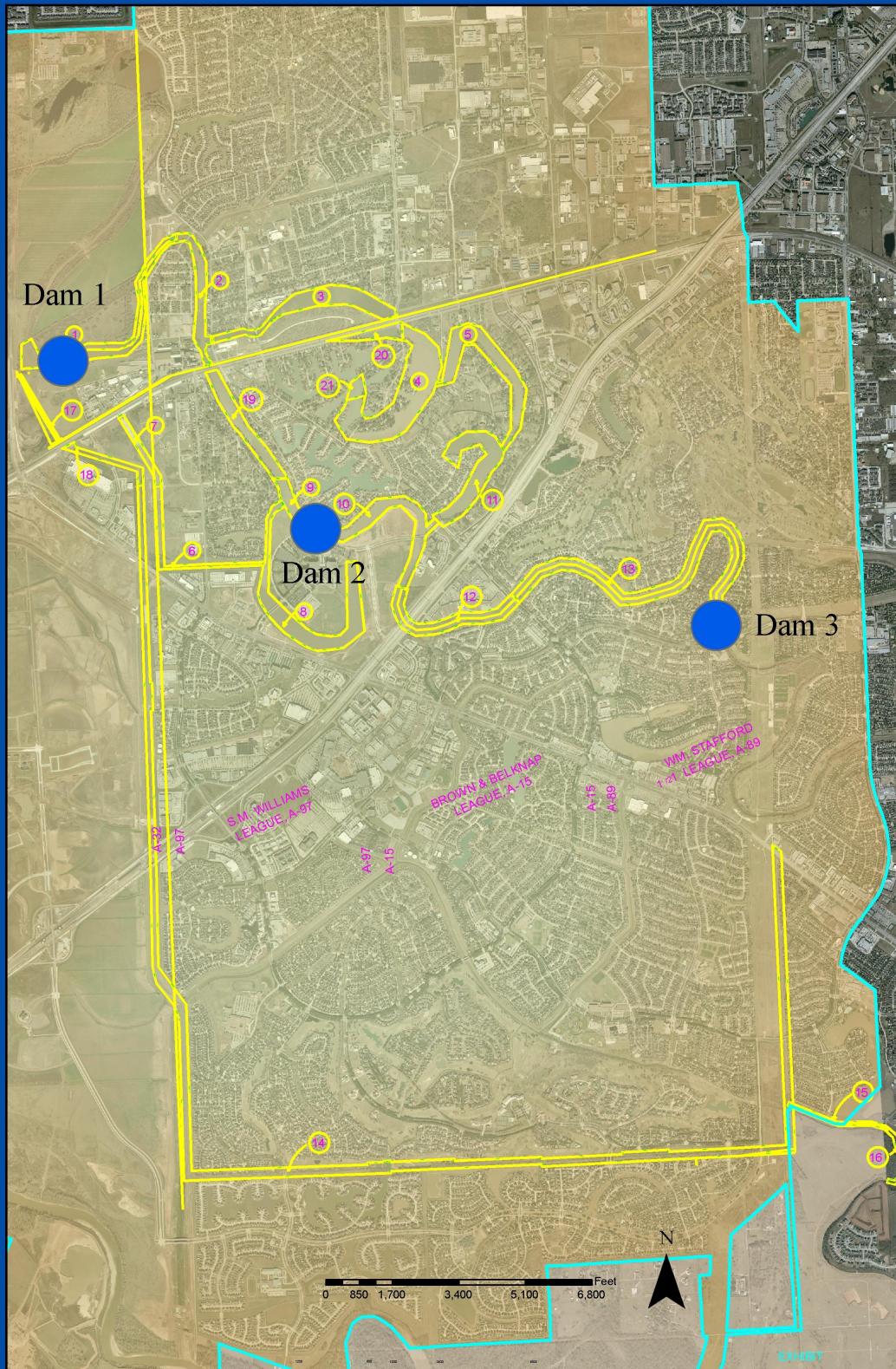
This proposed Agreement stipulates that the City will pay to the District \$37,300 for the easements and dams the District currently holds. The City has confirmed the inventory of assets through a third-party consultant. The Agreement also stipulates that the City reimburse the District for its legal costs related to the Agreement (not to exceed \$9,000) and the costs of posting two public notices of the sale (\$250). The total cost of the Agreement is therefore \$46,550.00.

The District authorized this Agreement at their Board meeting on August 21, 2007. With City Council's approval, staff will complete the closing process. The Agreement allows City staff, via the City Manager's authorization, to receive the easements and dams once all documents are finalized and signed. Funding for the easements and dams acquisition is available in CIP Project SW0702, and in the surface water operating budget for legal costs and notices.

EXHIBITS



Fort Bend County Water Control and Improvement District No. 1 Easements and Improvements (Dams)



FACILITIES PURCHASE AGREEMENT

THIS FACILITIES PURCHASE AGREEMENT (Agreement) is entered into between the **FORT BEND COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1 (District)** and the **CITY OF SUGAR LAND, TEXAS (City)**.

RECITALS

On April 5, 2006 the District and the City entered into a Surface Water Supply Agreement (Surface Water Agreement) wherein the District agreed to make impounded waters under Certificate of Adjudication No. 11-5170 from Jones and Oyster Creeks available to the City for sale on a retail basis within the City for municipal, industrial, or recreation purposes. In Section 7 of the Surface Water Agreement the District agreed to enter into good faith negotiations to sell to the City all the District's dams and real property improvements and facilities used to contain, control or convey the water. This Agreement sets forth the mutually acceptable terms and conditions of the sale as contemplated by the Surface Water Agreement and Section 49.226(b) Tex. Water Code.

AGREEMENT

In consideration of their mutual covenants and agreements, the parties agree as follows:

Section 1. Definitions.

City means the City of Sugar Land, Texas.

District means Fort Bend County Water Control and Improvement District No. 1.

Easement Tracts means the tracts generally described in Exhibit A under the heading Easements and Facilities, which is attached to this Agreement and incorporated by reference.

Environmental Assessment means any study, test or investigation of environmental conditions on, at, under or around the Property for the purpose of determining the suitability of the Property for the City's intended purposes, or for the purpose of conducting any desired or necessary "all appropriate inquiries" investigation under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sec. 9601 et seq.

Facilities means the canals, ditches, dams, flumes, culverts, drain boxes, gates, bridges, levees and all other improvements located on the Easement Tracts.

Property means the Facilities and Easement Tracts.

Section 2. Sale and Purchase.

The District agrees to assign the Easements located on the Easement Tracts (the Easements) and convey fee title to the Facilities to the City by execution of an Easement Assignment and Facilities Conveyance instrument in substantially the form shown in attached Exhibit B, which is incorporated

by reference.

Section 3. Purchase Price.

The total purchase price for the Property is \$37,300.00. The City will pay the District the purchase price in cash, wired funds, or cashier's or certified check at Closing. The sale proceeds may be used by the District for any lawful purpose, as provided in Section 49.226(e), Tex. Water Code.

Section 4. Public Notice.

The District will publish notice of the sale once a week for two consecutive weeks in a newspaper with general circulation in the District, as provided in Section 49.226(c) Tex. Water Code, prior to executing the Easement Assignment and Facilities Conveyance. The City will reimburse the District up to \$250.00 for the publication costs.

Section 5. Inspection.

(a) The City, its employees, officers and contractors may enter the Property to conduct inspections, an Environmental Assessment, and a current boundary survey, including a plat and field note description (Survey).

(b) The City is not responsible for any damages arising out of entry onto the Property under subsection (a), except for damages caused by the willful action or gross negligence of the City or its employees or officers.

(c) The District will cooperate with the City and make available copies of any reports or studies the District may possess concerning the Property or its condition.

Section 6. Title Commitment and Survey.

(a) Upon execution of this Agreement, the City may obtain, at its cost, a commitment for title insurance (the Title Commitment) for the Property and a current Survey.

(b) If the City decides to obtain the Title Commitment, the City will have 30 days from the receipt of the Title Commitment, Survey, and related documents to specify to District in writing those items that the City finds objectionable.

(c) If the City objects to any item set forth on the Title Commitment or the Survey, the District will use reasonable efforts to cure the matters before Closing but will have no obligation to expend any funds to do so. If the District is not able to cure the matters prior to Closing, the City may either terminate this Agreement by written notice to District, or waive the objections and proceed to Closing, without any reduction in the total purchase price.

Section 7. Environmental Assessment.

(a) Upon execution of this Agreement, the City may perform, at its cost, an Environmental

Assessment of the Property.

(b) If the City decides to perform the Environmental Assessment, the City will have 30 days from the date of this Agreement to specify to the District in writing any environmentally-related conditions of the Property that the City finds objectionable.

(c) If the City identifies any environmentally-related conditions of the Property that it finds objectionable, the District will use reasonable efforts to cure the environmentally-related conditions before Closing, but the District will have no obligation to expend any funds to do so. If the District is not able to cure the environmentally-related conditions prior to Closing, the City may either terminate this Agreement by written notice to District, or waive its objections and proceed to Closing, without any reduction in the total purchase price. Failure of the City to so terminate this Agreement by written notice to District will mean that the City waives any objections to environmental-related conditions of the Property.

(d) All federal, state and local environmental regulatory requirements and all liabilities related to environmental conditions of the Property shall be the sole responsibility of the City after Closing.

Section 8. Closing.

(a) The Closing of the District's sale of the Property to the City (Closing) will occur on or before September 30, 2007, unless the parties agree otherwise. The parties will agree upon the place of Closing.

(b) At the Closing, the District will deliver or cause to be delivered to the City a signed original Easement Assignment and Facilities Conveyance in substantially the form as attached Exhibit B.

(c) At the Closing, the City will deliver or cause to be delivered to District cash, wired funds or a cashier's or certified check in the amount of the total purchase price made payable to the District (or Title Company, if applicable). If a Title Company is involved, the City may pay additional funds necessary to cover the City's share of the closing costs and prorations thereunder.

(d) The City and District will provide any documents as may be reasonably necessary and appropriate to complete the Closing of the transaction contemplated herein. The City Manager of the City is authorized to sign all Closing documents on the City's behalf.

(e) Upon completion of the Closing, the District will deliver to the City possession of the Property, free and clear of all tenancies of every kind and parties in possession. If any improvements on the Property are damaged or destroyed prior to the date of Closing, the City may terminate this Agreement.

(f) In addition to the above costs, the City will pay :

- (1) the cost of preparing and recording the Easement Assignment and Facilities Conveyance;
- (2) the Title Company's escrow fee and the cost of the Title Commitment and the Title Policy, if applicable; and

- (3) the District's legal fees incurred in preparing this Agreement and completing the transaction contemplated in this Agreement. The City's reimbursement obligation for legal fees will not exceed \$9,000. The legal fees must be reflected on invoices the District receives from its legal counsel. The City will reimburse the legal fees up to the maximum amount to the District within 30 days after the District provides the City a copy of the invoice(s) from the District's legal counsel.

(g) The District will pay all ad valorem taxes, and any penalties and interest thereon, that are owed, due, levied, or assessed against the Property up to the current year, prorated to the date of Closing.

Section 9. Notices.

Any notice required to be given must be in writing and will be served (i) by depositing same in the United States mail, addressed to the party to be notified, postage prepaid and registered or certified with return receipt requested; (ii) by delivering the same to such party or agent of such party, in person or by commercial courier; or (iii) by facsimile or by depositing the same into the custody of a nationally recognized overnight delivery service such as Federal Express Corporation, addressed to the party to be notified. For purposes of notice, the addresses of the parties will be as follows:

If to District, to: President, Board of Directors
 PO Box 1349
 Sugar Land, Texas 77478-1349

If to City, to: City Manager
 City of Sugar Land
 P. O. Box 110
 Sugar Land, TX 77487-0110

From time to time either party may designate another address by giving the other party at least ten (10) days advance notice of such change of address.

Section 10. Remedies.

(a) If the City terminates this Agreement in accordance with a provision of this Agreement providing for termination by the City, then neither party hereto has any further rights, duties or obligations hereunder.

(b) The termination of the Surface Water Agreement will not affect the rights, duties or obligations in this Agreement. The City acknowledges and agrees that the Easements assigned and the Facilities conveyed hereunder must be used to contain, control and convey the water appropriated under Certificate of Adjudication No. 11-5170. In the event the City sells, conveys, assigns or otherwise transfers ownership or control of the Easements and Facilities to a third party, the City will obligate the third party (i) to continue to utilize the Easements and Facilities to contain, control and convey the water appropriated under Certificate of Adjudication No. 11-5170, and (ii) to comply with any restrictions contained in the District's contract with Imperial Sugar Company concerning the

maintaining of a minimum surface elevation of flow in Oyster Creek.

Section 11. Miscellaneous.

- (a) Entire Agreement. This Agreement is the entire agreement between the City and District concerning the sale of the Property and supersedes all prior agreements and understandings and no modification hereof or subsequent agreement relative to the subject matter hereof is binding on either party unless reduced to writing and signed by the party to be bound.
- (b) Severability. If a court rules that any part of this Agreement is invalid or unlawful, the remainder of the Agreement remains binding on the parties.
- (c) Venue. The parties hereto waive the right to be sued elsewhere and agree and consent to the jurisdiction of any court of competent jurisdiction located in Fort Bend County, Texas.
- (d) Representations. The District represents that no other person has any interests in or claim against the Property and it has no current actual knowledge of any condition, including any environmental contamination of the Property that would materially adversely affect its use by the City.
- (e) Superseding Effect. This Agreement supersedes the Contract to Convey Property approved by the City and the District on April 17, 2006.

Section 12. Effective Date.

The date of execution of this Agreement by the latter of City or District is the Effective Date of this Agreement.

By: _____

Typed Name:

President, Board of Directors

Date: _____

ATTEST:

Typed Name:

Secretary, Board of Directors

(SEAL)

CITY OF SUGAR LAND, TEXAS

By: Allen Bogard, City Manager

Date: _____

ATTEST:

Reviewed for Legal Compliance:

Eugenia A. Cano

City Secretary

(SEAL)

Attachments: Exhibit A – Certificate of Ownership
Exhibit B – Facilities and Easements Conveyance

CONTRACT LAND STAFF, INC.
10701 Corporate Drive, Suite 215
Stafford, Texas 77477
281-340-3313

CERTIFICATE OF OWNERSHIP

DATE: 06/21/2006

CERT NO.: FB-0393

A thorough search of the public records maintained by the Fort Bend County Clerk was made immediately prior to the date of this certificate and an account of all property still owned by the Fort Bend County Water Control & Improvement District Number One as filed of public record is as follows:

FEE TRACTS:

A tract of land containing 0.659 acres, more or less, being located in the Alexander Hodge League, Abstract No. 32, Fort Bend County, Texas, said tract being granted to the Fort Bend County Water Control & Improvement District Number One and described by metes and bounds therein by virtue of that certain Deed from Imperial Sugar Company, executed on April 16, 1980 and filed for public record on April 22, 1980 under Volume 895, Page 275 Deed Records of Fort Bend County, Texas

A tract of land containing 1.294 acres, more or less, being located in the Alexander Hodge League, Abstract No. 32, Fort Bend County, Texas, said tract being granted to the Fort Bend County Water Control & Improvement District Number One and described by metes and bounds therein by virtue of that certain Deed from Imperial Sugar Company, executed on April 16, 1980 and filed for public record on April 22, 1980 under Volume 895, Page 275 Deed Records of Fort Bend County, Texas

A tract of land containing 2.087 acres, more or less, being located in the Alexander Hodge League, Abstract No. 32, Fort Bend County, Texas, said tract being granted to the Fort Bend County Water Control & Improvement District Number One and described by metes and bounds therein by virtue of that certain Deed from Imperial Sugar Company, executed on April 16, 1980 and filed for public record on April 22, 1980 under Volume 895, Page 275 Deed Records of Fort Bend County, Texas

A tract of land containing 0.702 acres, more or less, being located in the Alexander Hodge League, Abstract No. 32, Fort Bend County, Texas, said tract being granted to the Fort Bend County Water Control & Improvement District Number One and described by metes and bounds therein by virtue of that certain Quitclaim Deed from the Missouri Pacific Railroad Company, executed on November 9, 1990 and filed for public record on November 28, 1990 under Volume 2260, Page 1709 Official Public Records of Real Property of Fort Bend County, Texas

A tract of land containing 0.998 acres, more or less, being located in the Alexander Hodge League, Abstract No. 32, Fort Bend County, Texas, said tract being granted to the Fort Bend County Water Control & Improvement District Number One and described by metes and bounds therein by virtue of that certain Quitclaim Deed from the Missouri Pacific Railroad Company, executed on November 9, 1990 and filed for public record on November 28, 1990 under Volume 2260, Page 1709 Official Public Records of Real Property of Fort Bend County, Texas

A tract of land containing 0.141 acres, more or less, being located in the Alexander Hodge League, Abstract No. 32, Fort Bend County, Texas, said tract being granted to the Fort Bend County Water Control & Improvement District Number One and described by metes and bounds therein by virtue of that certain Quitclaim Deed from the Missouri Pacific Railroad Company, executed on November 9, 1990 and filed for public record on November 28, 1990 under Volume 2260, Page 1709 Official Public Records of Real Property of Fort Bend County, Texas

A tract of land containing 0.076 acres, more or less, being located in the Alexander Hodge League, Abstract No. 32, Fort Bend County, Texas, said tract being granted to the Fort Bend County Water Control & Improvement District Number One and described by metes and bounds therein by virtue of that certain Quitclaim Deed from the Missouri Pacific Railroad Company, executed on November 9, 1990 and filed for public record on November 28, 1990 under Volume 2260, Page 1709 Official Public Records of Real Property of Fort Bend County, Texas

EXHIBIT A

EASEMENTS AND FACILITIES:

A right-of-way and easement in, over and to the following described land, along with fee title to all canals, ditches, dams, flumes, culverts, drain boxes, gates, bridges, levees and other improvements of every character, situated on the land:

1):

ON OYSTER CREEK NORTH AND WEST OF THE SUGARLAND TOWNSITE:

22.2 acres out of the S. M. Williams League (2.59 ac) and Alexander Hodge League (19.61 ac)

IN OYSTER CREEK SOUTH OF SUGARLAND TOWNSITE, NORTH OF DAM NO. 2:

11.07 acres out of the S. M. Williams League

BROOKS LAKE AND BROOKS SLOUGH:

50.12 acres out of the S. M. Williams League

UNIDENTIFIED (BEG AT CHAR LAKE AND BROOKS STREET):

11.76 acres out of the S. M. Williams League

ON OYSTER CREEK FROM DAM NO 2 TO LOW WATER BRIDGE:

36.88 acres out of the S. M. Williams League (9.73 ac) and Brown and Belknap League (27.15 ac)

PART OF ELDRIDGE LAKE:

60.05 acres out of the S. M. Williams League (10.03 ac) and Brown and Belknap League (50.02 ac)

UNIDENTIFIED (BEG AT SOUTHERN PAC RR NEAR MISSOURI PAC RR:

40.61 acres out of the Brown & Belknap League

UNIDENTIFIED (BEG AT A POINT ON THE MISSOURI PAC RR):

36.95 acres out of the Brown and Belknap League

STEEP BANK CREEK RIGHT OF WAY BELOW THE WATER GATES:

6.15 acres out of the William Stafford 1 ½ League Grant

OYSTER CREEK FROM DAM NO. 3 TO MISSOURI PAC RR:

67.38 acres of land out of the William Stafford 1 ½ League (40.32 ac) and E. Alcorn League (11.15 ac)

and Brown and Belknap League (15.91 ac)

OYSTER CREEK FROM MISSOURI PAC RR TO LOW WATER BRIDGE:

27.92 acres out of the E. Alcorn League

RIVER PROTECTION LEVEE:

187.83 acres out of E. Alcorn League (37.92 ac) and William Stafford 1 ½ League (49.52 ac) and

Alexander Hodge League (51.38 ac) and S. M. Williams League (49.01 ac)

All of said tracts being described more particularly by metes and bounds and said equipment being granted to the Fort Bend County Water Control & Improvement District Number One by virtue of that certain Conveyance from Alcorn Land & Improvement Co., executed on November 15, 1937 and filed for record on January 14, 1938 under Volume 172, Page 281 Deed Records of Fort Bend County, Texas

2):

RIGHT OF WAY FOR OYSTER CREEK FROM HIGHWAY 3 TO SOUTH LINE OF SUGARLAND:

25.2 acres out of S. M. Williams League

UNIDENTIFIED (BEG AT SOUTH LINE OF SUGARLAND AND EAST BANK OF CHAR LAKE):

8.48 acres out of Alexander Hodge League (5.87 ac) and S. M. Williams League (2.61 ac)

UNIDENTIFIED (BEG NEAR RR'S AND END AT SOUTH LINE OF HIGHWAY 3):

9.82 acres out of S. M. Williams League (1.44 ac) and Brown and Belknap League (8.38 ac)

UNIDENTIFIED (SOUTH LINE OF SUGARLAND):

4.49 acres out of the S. M. Williams League (2.25 ac) and Brown and Belknap League (2.24 ac)

LEVEE RIGHT OF WAY SOUTH OF G H & S A RR:

8.50 acres out of Alexander Hodge League

All of said tracts being described more particularly by metes and bounds and said equipment being granted to the Fort Bend County Water Control & Improvement District Number One by virtue of that certain Conveyance from Belknap Realty Company, executed on November 15, 1937 and filed for record on January 14, 1938 under Volume 172, Page 289 Deed Records of Fort Bend County, Texas

3):

ALL OF OYSTER CREEK NORTH OF SOUTHERN PAC RR ON IMPERIAL SUGAR LAND IN SL:

36.35 acres out of Alexander Hodge League (12.92 ac) and S. M. Williams League (23.43 ac)

ALL OF CLEVELAND LAKE AND CLEVELAND LAKE CANAL ON IMPERIAL SUGAR LAND IN SL:

37.01 acres out of S. M. Williams League (25.83 ac) and Brown and Belknap League (11.18 ac)

PROTECTION LEVEE ON THE NORTH SIDE OF THE SOUTHERN PAC RR:

4.02 acres out of Alexander Hodge League

All of said tracts being described more particularly by metes and bounds and said equipment being granted to the Fort Bend County Water Control & Improvement District Number One by virtue of that certain Conveyance from Imperial Sugar Company, executed on November 15, 1937 and filed for record on January 14, 1938 under Volume 172, Page 292 Deed Records of Fort Bend County, Texas

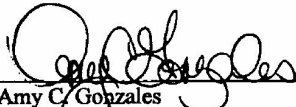
4):

PART OF STEEP BANK CREEK RIGHT OF WAY BELOW THE WATER GATES:

3.63 acres out of the William Stafford 1 ½ League

Said tract being described more particularly by metes and bounds and said equipment being granted to the Fort Bend County Water Control & Improvement District Number One by virtue of that certain Conveyance from Trustees of the Sugarland Industries executed on November 15, 1937 and filed for record on January 14, 1938 under Volume 172, Page 295 Deed Records of Fort Bend County, Texas

This report is based on documentation filed with the Fort Bend County Clerk through 06/15/2006.


Amy C. Gonzales
for CONTRACT LAND STAFF, INC.

" Statement of Limitation of Liability: Amy C. Gonzales shall make every concerted effort to provide complete and accurate information to her clients based on information provided by public records. However, she makes no warranty, express, implied or statutory concerning the contents of this report and her liability concerning the information contained herein shall not exceed the cost of the services and productions contained in this report, whether in contract, tort, or otherwise. Seller provides no warranty whatsoever, express implied or statutory, as to the accountability, uniformity, or marketableness of the information provided for compensation."

EXHIBIT B

EASEMENT ASSIGNMENT AND FACILITIES CONVEYANCE

RECITALS: The Fort Bend County Water Control and Improvement District No. 1 has determined that this easement assignment and facilities conveyance to the City of Sugar Land, Texas is necessary and advantageous to the District as authorized by Section 49.226, Texas Water Code.

DATE: _____, 2007

GRANTOR: Fort Bend County Water Control and Improvement District No. 1

GRANTOR'S MAILING

ADDRESS: Fort Bend County Water Control and Improvement District No. 1
P.O. BOX 1349
SUGAR LAND, TEXAS 77478

GRANTEE: City of Sugar Land, Texas

GRANTEE'S MAILING City Manager
ADDRESS: City of Sugar Land, Texas
P.O. Box 110
Sugar Land, Texas 77487-0110

CONSIDERATION: Thirty seven thousand three hundred dollars (\$37,300)

**EASEMENTS AND
FACILITIES:**

A right-of-way and easement in, over, and to the following land (the Easements), together with the canals, ditches, dams, flumes, culverts, drain boxes, gates, bridges, levees, and all other improvements (the Facilities) located thereon:

- (1) Parcels of land consisting of a total of 558.92 acres of land more or less, in the S. M. Williams, Alexander Hodge, Brown and Belknap, William Stafford 1 1/2 and E. Alcorn Leagues in Fort Bend County, Texas, as recorded in Volume 172, Page 281 of the Fort Bend County Deed Records.
- (2) Parcels of land consisting of a total of 56.49 acres of land, more or less, in the S. M. Williams, Alexander Hodge, and Brown and Belknap Leagues in Fort Bend County, Texas, as recorded in Volume 172, Page 289 of the Fort Bend County Deed Records.
- (3) Parcels of land consisting of a total of 77.38 acres of land, more or less, in the S. M. Williams, Alexander Hodge, and Brown and Belknap Leagues in Fort Bend County, Texas, as recorded in Volume 172, Page 292 of the Fort Bend County Deed Records.
- (4) A parcel of land consisting of 3.63 acres of land, more or less, in the William Stafford 1 1/2 League in Fort Bend County, Texas, as recorded in Volume 172, Page 295 of the Fort Bend County Deed Records.

**RESERVATIONS FROM
AND EXCEPTIONS TO
CONVEYANCE AND
WARRANTY:**

- (1) All valid encumbrances, conditions, covenants, restrictions, reservations, exceptions, rights-of-way, easements, and other matters affecting the Property which are presently filed of record in the Official Records of Fort Bend County, Texas.
- (2) The right-of-way and easements conveyed by the District to J.M. Frost, Jr., J.M. Frost, III, Mrs. W.H. Keenan and W. Scott Frost in, to and over the parcels of land as recorded in Volume 424, Page 344 of the Fort Bend County Deed Records.
- (3) Grantor's right to use the diversion points and to impound water in the system of reservoirs created by the dams located on the Easements in accordance with Certificate of Adjudication No. 11-5170 issued by the Texas Water Commission (now the Texas Commission on Environmental Quality or "TCEQ") dated December 14, 1987 (Certificate of Adjudication).

CONDITIONS:

- (1) Grantor will maintain its Certificate of Adjudication in good standing with the TCEQ, or any successor agency, including the right to impound and divert water pursuant to the Certificate of Adjudication. Grantor will protect and defend its water rights under the Certificate of Adjudication. If Grantor receives a notice or other information indicating an actual or threatened legal challenge to all or part of the District's water rights under its Certificate of Adjudication, the Grantor shall provide such information to Grantee and Grantee will have the right to protect and defend the water rights in order to protect Grantee's interests under this Easement Assignment and Facilities Conveyance and under the Surface Water Supply Agreement between Grantor and Grantee executed on April 5, 2006 (the Surface Water Supply Agreement).
- (2) Grantee has the right to divert and use 17,159 acre-feet of water per year under the Certificate of Adjudication in accordance with the Surface Water Supply Agreement.
- (3) Grantee will operate and maintain the Facilities.

GRANTOR assigns to Grantee, its successors and assigns, all its right, title and interest in and to the Easements, subject to the reservations from and exceptions to conveyance and warranty.

GRANTOR sells and conveys to Grantee, its successors and assigns, all its right, title and interest in and to the Facilities, subject to the herein described reservations and exceptions.

TO HAVE AND TO HOLD the Easements and Facilities unto the Grantee, its successors and assigns, forever and Grantor does bind itself, its successors and assigns, to warrant and forever defend, all and singular, the Easement unto the Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, when the claim is by, through, or under Grantor but not otherwise.

GRANTOR:

Fort Bend County Water Control and
and Improvement District No. 1

GRANTEE:

City of Sugar Land

By: _____
Typed Name: _____
President, Board of Directors

By: _____
Allen Bogard, City Manager

STATE OF TEXAS

COUNTY OF FORT BEND

This instrument was acknowledged before me on _____, 2007, by _____, President, Board of Directors, on behalf of the Fort Bend County Water Control and Improvement District No. 1.

Notary Public, State of Texas

Notary's name (printed):

Notary's commission expires:

STATE OF TEXAS

COUNTY OF FORT BEND

This instrument was acknowledged before me on _____, 2007 by Allen Bogard, City Manager, on behalf of the City of Sugar Land.

Notary Public, State of Texas

Notary's name (printed):

Notary's commission expires:

AFTER RECORDING RETURN TO:

City of Sugar Land
P. O. Box 110
Sugar Land, TX 77487-0110
Attn: City Secretary